

DEC 27 1983

No. 82-1724

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In The  
**Supreme Court of the United States**  
OCTOBER TERM, 1983

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STATE OF NEW YORK,

*Petitioner,*

vs.

ROBERT UPLINGER and SUSAN BUTLER,

*Respondents.*

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**ON WRIT OF CERTIORARI TO THE  
NEW YORK STATE COURT OF APPEALS**

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**PETITIONER'S OBJECTION TO MOTION OF  
THE COMMITTEES ON SEX AND LAW, CIVIL  
RIGHTS, CRIMINAL LAW, AND CRIMINAL  
COURTS OF THE ASSOCIATION OF  
THE BAR OF THE CITY OF NEW YORK  
TO FILE BRIEF *AMICUS CURIAE***

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Petitioner State of New York hereby respectfully files its objection, pursuant to Supreme Court Rule 36.3, to the motion made by the Committees on Sex and Law, Civil Rights, Criminal Law, and Criminal Courts of the Association of the Bar of the City of New York to file a brief *amicus curiae* on behalf of Respondent Uplinger. The motion and brief *amicus curiae* were received by petitioner on December 20, 1983. Consent to file a brief as *amicus curiae* had been requested of petitioner but refused on the ground that *amicus* had no concrete, substantial interest in the decision of the case.

Petitioner respectfully requests that the Court deny the motion for leave to file the brief *amicus curiae* because the

various committees of the Association of the Bar of the City of New York have raised and discussed in their proffered brief no issue which has not already been dealt with by a party to this controversy, Respondent Uplinger. Specifically, in arguing that Penal Law §240.35(3) is facially unconstitutional in that it abridges rights protected by the First and Fourteenth Amendments without a concomitant compelling state interest, the *amicus curiae* brief covers no new relevant material or presents no novel relevant argument which has not been submitted by Respondent Uplinger. Petitioner respectfully submits that the proposed brief will not in any way further assist the Court in that it is merely duplicative of information already filed by a party to the case.

For all the foregoing reasons, petitioner respectfully requests this Court to deny the motion of the Committees on Sex and Law, Civil Rights, Criminal Law, and Criminal Courts of the Association of the Bar of the City of New York for leave to file a brief *amicus curiae*.

Respectfully submitted,

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